

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 29, 31, 33-34, 36, 49, 52-55, 57-64, 69-70, 74-88 and 91 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As claim 19, line 18, claim 36, line 18, claim 49, line 13, claim 70, line 12, claim 85, line 12, claim 88, line 15, "the first communication device" is vague and indefinite because it does not refer to any previous element.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 29, 31, 33-34, 36, 70, 74-87 are rejected under 35 U.S.C. 101 because the claimed invention is directed to a device or apparatus which is a physical hardware. However, the body of the claims the applicant only recites element, block which are defined as the modules of software. This implies that Applicant is claiming software, per se, lacking the hardware necessary to realize any of the underlying functionality. Therefore, the claims invention directed to non-statutory subject matter as computer programs, per se, i.e. the descriptions or expressions of the programs, are not physical

“things.” Therefore, the claims invention is direct to both statutory such as apparatus and software “process” as stated in the specification section 91.

Allowable Subject Matter

5. Claims 1, 6-11, 14, 19-21, 25-28, 37-42, 45-48 allowed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven HD Nguyen whose telephone number is (571) 272-3159. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Yao Kwang can be reached on (571) 272-3182. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Steven HD Nguyen/

Application/Control Number: 10/036,215
Art Unit: 2473

Page 4

Primary Examiner, Art Unit 2473